

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Katherine L. Bowers	)	
Map 118-05-0-A, Parcel 46.00	)	Davidson County
Residential Property	)	
Tax Year 2005	)	

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,000	\$95,500	\$130,500	\$32,625

An appeal has been filed on behalf of the property owners with the State Board of Equalization. The appeal was timely filed on September 2, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on March 30, 2006 at the Davidson County Property Assessor's Office. Present at the hearing were Katherine Bowers, the appellant, and Davidson County Property Assessor's representative, Jason Poling.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a single family residence located at 940 Gale Lane, #137 in Nashville, Tennessee.

The taxpayer contends that the property is worth \$45,000 based on the fact that the home has not been updated since the purchase in 1973. Mrs. Bowers stated that she and one other neighbor were the only persons who did not sell their homes when a developer moved in and bought up all the other homes in the area, turning them into "Residential Condos". Because they were condominiums the developer could force her to remodel the outside of the home so that the exterior would match the other homes in the neighborhood. Mrs. Bowers stated that then the developer remodeled the condos and sold them for much more than he could have gotten before the renovations (exhibit #2).

Mrs. Bowers has submitted a collective late filed exhibit (#4) which shows the lack of renovations of her unit versus the exterior renovations and updated amenities to the other units.

The assessor contends that the property should be valued at \$130,500.

The presentation by the taxpayer shows that a lot of time and effort was put into preparing for this hearing. The taxpayers exhibits (collective exhibit #2) shows that thoughtful planning and research were used in the compilation; however, the germane issue is the value of the property as of January 1, 2005.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of **speculative values**. . .”

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$101,850 based upon the concept of functional obsolescence.<sup>1</sup> The improvements and amenities that the developer used in the newer models has naturally increased the values of those properties. The administrative judge is of the opinion that Mrs. Bowers is entitled to a 30% reduction in her value. Mrs. Bowers' neighborhood is experiencing the phenomenon of gentrification.<sup>2</sup>

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981). The administrative judge finds that by testimony and exhibits, she has sustained her burden.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,000	\$66,850	\$101,850	\$25,463

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

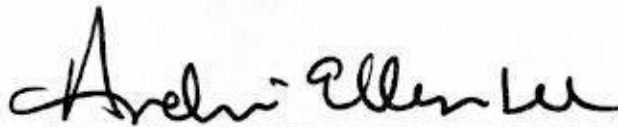
<sup>1</sup> An element of depreciation resulting from deficiencies or superadequacies in the structure. The Dictionary of Real Estate Appraisal, 4<sup>th</sup> ed, 2002.

<sup>2</sup> A neighborhood phenomenon in which middle and upper income persons purchase neighborhood properties and renovate or rehabilitate them. The App. Of Real Estate, 12<sup>th</sup> ed., 2001.

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 28<sup>th</sup> day of April, 2006.



ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Katherine L. Bowers  
Jo Ann North, Assessor of Property